

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LEIGH ANN KANISH,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:19-cv-338
CRAWFORD AREA)	
TRANSPORTATION AUTHORITY,)	
)	
Defendant.)	

MEMORANDUM ORDER

In this civil action, Plaintiff Leigh Ann Kanish (“Kanish”) claims that she was constructively discharged from her job at Defendant Crawford Area Transportation Authority (“CATA”) as the result of ongoing sexual harassment from her supervisor. The case was commenced on November 14, 2019 with the filing of Plaintiff’s six-count complaint alleging violations of Title VII of the Civil Rights Act of 1964 (“Title VII”) and the Pennsylvania Human Relations Act (“PHRA”). ECF No. 1. Plaintiff’s various causes of action are predicated on claims of a hostile work environment (Counts I and II), *quid pro quo* sexual harassment (Counts III and IV), and retaliation (Counts V and VI). *Id.*

After Plaintiff filed her complaint, the case was referred to United States Magistrate Judge Richard A. Lanzillo for pretrial proceedings, in accordance with the Magistrates Act, 28 U.S.C. §636(b)(1), and Rule 72 of the Local Civil Rules of this Court. CATA answered the complaint on December 31, 2019, ECF No. 6, and, thereafter, Judge Lanzillo entered a case management schedule. ECF No. 14.

Following a period of discovery, CATA filed a motion for summary judgment and supporting materials on October 6, 2020. ECF Nos. 23, 24, 25, 26. Kanish filed her responsive

materials on November 5, 2020. ECF Nos. 28, 29, 30. CATA filed its reply on November 18, 2020. ECF No. 31. Judge Lanzillo held oral argument on March 24, 2021. ECF No. 33.

On March 26, 2021, Magistrate Judge Lanzillo issued a Report and Recommendation in which he recommended that CATA's motion for summary judgment be denied. ECF No. 34. Initially, the Magistrate Judge observed that CATA had not challenged the sufficiency of the record insofar as it supported the essential elements of Kanish's hostile work environment, *quid pro quo*, or retaliation claims under Title VII and/or the PHRA. The Magistrate Judge next concluded that CATA could raise a *Faragher/Ellerth*¹ affirmative defense based on the fact that it had established an official policy against sexual harassment, as set forth in the employee handbook; however, the Magistrate Judge also concluded that the record gave rise to genuine issues of material fact concerning: (a) whether CATA's preventative and corrective measures were effective and reasonable and (b) whether Kanish had reasonably failed to avail herself of those measures. Based on his conclusion that CATA had failed to demonstrate the absence of genuine disputes of material fact or an entitlement to judgment as a matter of law on the *Faragher/Ellerth* defense, Judge Lanzillo recommended that the motion for summary judgment be denied.


Objections to the Report and Recommendation were due on April 9, 2021. To date, no objections have been received.

After *de novo* review of the CATA's motion for summary judgment, all filings related thereto, and the Magistrate Judge's Report and Recommendation, the following order is entered:

¹ See *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998), and *Burlington Indus. Inc., v. Ellerth*, 524 U.S. 742 (1998).

AND NOW, this 16th day of April, 2021;

IT IS ORDERED that the motion for summary judgment, ECF No. [23], filed by the Crawford Area Transportation Authority shall be, and hereby is, DENIED. The Report and Recommendation issued by United States Magistrate Judge Richard Lanzillo on March 26, 2021, ECF No. [34], is hereby adopted as the opinion of this Court.


SUSAN PARADISE BAXTER
United States District Judge

cc: All counsel of record.

The Honorable Richard A. Lanzillo
United States Magistrate Judge